

# NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES

This notice is given pursuant to T. R. 81 and the SECOND AMENDED SCHEDULE FOR ALL LOCAL COURT RULES that the Judges of the Hendricks Circuit and Superior Courts propose the following amendments and additions to the local rules (a copy of each is attached hereto and available for review in the Hendricks County Clerk's Office):

1. All Hendricks County Local Rules, Hendricks County Family Law Rules and Hendricks County Probate Local Rules are rescinded effective January 1, 2007.
2. LR32-AR00-1 shall take effect January 1, 2007.
3. LR32-AR1-1 shall take effect January 1, 2007.
4. LR32-AR15-1 shall take effect January 1, 2007.
5. LR32-TR79-1 shall take effect January 1, 2007.
6. LR32-CR2.2-1 shall take effect January 1, 2007.

Any comments may be sent to the Judges of the Circuit and Superior Courts of Hendricks County through the Clerk at P.O. box 599, Danville, IN 46122.

Comments will be accepted from the bar and public until July 1, 2006.

The proposed changes shall be adopted, modified or rejected by July 31, 2006.

The rules requiring Supreme Court approval will be submitted to the Court by August 1, 2006.

LR32-AR1-1, LR32-AR15-1, LR32-TR79-1, and LR32-2.2-1 shall not take effect until approved by the Indiana Supreme Court.

DATED THIS 1<sup>ST</sup> DAY OF JUNE 2006.

*/s/Jeffrey V. Boles*

*/s/Robert W. Freese*

\_\_\_\_\_  
Jeffrey V. Boles, Judge  
Hendricks Circuit Court

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Robert W. Freese, Judge  
Hendricks Superior Court No.1

*/s/David H. Coleman*

*/s/Karen M. Love*

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David H. Coleman, Judge  
Hendricks Superior Court No.2

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Karen M. Love, Judge  
Hendricks Superior Court No.3

**LR32-AR00-1**

**AMENDMENT OF LOCAL RULES**

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**PLAN FOR ALLOCATION OF JUDICIAL SERVICES**

1. As used herein, the term *WEEK* for case filing shall mean the following:
  - 1.1 Circuit Court **WEEK 6**
  - 1.2 Superior Court No. 1 **WEEK 1**
  - 1.3 Superior Court No. 2 **WEEK 2**
  - 1.4 Superior Court No. 3 **WEEK 3**
  - 1.5 Superior Court No. 4 **WEEK 4**
  - 1.6 Superior Court No. 5 **WEEK 5**
2. All cases with a case designation of **JC, JP, JT, JD, JS,** and **RS** and all criminal cases in which the defendant was less than eighteen years of age on the date of the alleged offense. shall be filed in Hendricks Circuit Court.
3. All cases with a case designation of **AD, ES, EU, IT, PR, GU, MH,** and **TR** shall be filed in Hendricks Superior Court No. 1.
4. All cases with a case designation of **OV** shall be filed in Hendricks Superior Court No. 3.
5. All cases with an **IF** case designation filed with the Clerk of Hendricks County (unless filed as an additional count in a criminal filing) shall be filed in Hendricks Superior Court No. 4 and Hendricks Superior Court No. 5 equally.
  - 5.1 All IF cases with an offense date of January, March, May, July, September, and November shall be filed in Superior Court No. 4.
  - 5.2 All IF cases with an offense date of February, April, June, August, October, and December shall be filed in Superior Court No. 5.
6. All cases with an **SC** case designation shall be filed in Hendricks Superior Court No.2, Hendricks Superior Court No. 3, Hendricks Superior Court No. 4, and Hendricks Superior Court No.5 equally.
  - 6.1 Superior Court No. 5 shall receive all SC cases filed in January, February and March.
  - 6.2 Superior Court No. 4 shall receive all SC cases filed in April, May, and June.
  - 6.3 Superior Court No. 3 shall receive all SC cases filed in July, August and September.
  - 6.4 Superior Court No. 2 shall receive all SC cases filed in October, November, and December.
7. All cases with a **PC** case designation shall be filed in the Court having jurisdiction of the original criminal case.

8. Circuit Court and each of the 5 Superior Courts shall share equally all cases with the following case designations with the accompanying limits:
- 8.1 **CC 120**
  - 8.2 **CT 025**
  - 8.3 **DR 120**
  - 8.4 **MC 030**
  - 8.5 **MF 115**
  - 8.6 **MI 020**
  - 8.7 **PO 065**
  - 8.1.1 Once the limits are reached, that Court shall receive no additional filings until all courts reach the limit, then the Clerk will assign new cases equally to all Courts.
9. Circuit Court and each of the 5 Superior Courts shall share all cases with a **PL** case designation with the following limits:
- 9.1 Circuit **40**
  - 9.2 Superior Court No. 1 **00**
  - 9.3 Superior Court No. 2 **80**
  - 9.4 Superior Court No. 3 **80**
  - 9.5 Superior Court No. 4 **55**
  - 9.6 Superior Court No. 5 **65**
  - 9.1.1 Once the limits are reached, that Court shall receive no additional filings until all courts reach the limit, then the Clerk will assign new cases equally to all Courts.
- 10 Criminal cases (**MR, FA, FB, FC, FD, CM**) filed with the Hendricks County Clerk shall be assigned by the Clerk according to the LR32-CR2.2-1.
- 11 Protective Orders (**PO**) shall be filed based on the *WEEK* rotation on the day in which the case was filed, unless the parties have previously filed a dissolution case. If a dissolution case has been previously filed, the protective order case shall be filed in the same court as the dissolution case
- 12 Dissolution (**DR**) cases may be filed as set forth herein unless a **PO** case has been filed and is pending or an Order of Protection has been issued, then the **DR** case **MUST** be filed in the same Court as the **PO** case.
- 13 Cases in which the parties have not requested a particular court shall be rotated equally among the six (6) courts in the following order: First, Hendricks Circuit Court, Second, Hendricks Superior Court No.1, Third, Hendricks Superior Court No.2, Fourth, Hendricks

Superior Court No.3, Fifth, Hendricks Superior Court No. 4, and Sixth, Hendricks Superior Court No.5

- 14 An initiating party's request for a particular court shall be granted by the Clerk until that court has reached its case limit or as may be restricted by other sections of this rule. Once a court's annual case limit has been reached, the Clerk shall deny the request for that court and file the case in rotation among the other remaining courts. The Clerk shall thereafter limit the filing in this manner until all six (6) courts have reached their case limit.
- 15 When all six (6) courts have reached their case limit, the Clerk shall rotate the filing equally among the six (6) courts until the end of the calendar year at which time the process shall start anew.
- 16 The judge of a court that has reached its case limit shall not be included on a panel for selection of special judge for a Hendricks County case. After all courts have reached all case limits, then the judges of each court may be included on a panel for selection of special judge of the Hendricks County cases.
- 17 The Clerk of Hendricks County shall notify all courts when any court has reached a case limit and shall post the notice in the Clerk's office to inform the Bar and public.
- 18 As necessary to affect compliance with the orders of the Indiana Supreme Court the case limit for any court may be changed by an order issued by a majority of the judges of the Hendricks County Courts.
- 19 All transfer cases received by the Clerk of Hendricks County pursuant to District 8 Plan For Allocation of Judicial Resources shall be assigned as provided by this local rule.

COURT REPORTER SERVICES

1. **DEFINITIONS.** The following definitions shall apply under this local rule.

- 1.1. A **Court Reporter** is an employee at will, not an independent contractor, not self-employed subject to the control of the Judge and is specifically designated to perform the official court reporting services for the court including preparing a transcript of the record.
- 1.2. **Equipment** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipments shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- 1.3. **Work Space** means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- 1.4. **Page** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- 1.5. **Recording** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- 1.6. **Regular Hours Worked** means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- 1.7. **Gap hours worked** means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- 1.8. **Overtime hours worked** means those hours worked in excess of forty (40) hours per work week.
- 1.9. **Work Week** means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- 1.10. **Court** means that particular court for which the court reporter performs services. Court may also mean all of the courts in Hendricks County.
- 1.11. **County indigent transcript** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- 1.12. **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

- 1.13. **Private transcript** means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

**2. SALARIES AND PER PAGE FEES.**

- 2.1. Court Reporters shall be paid for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.
- 2.2. The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.25. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- 2.3. The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.25.
- 2.4. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.25.
- 2.5. A minimum transcript fee of \$40.00 may be charged for any transcript.
- 2.6. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
- 2.7. Court reporters may charge an additional hourly labor charge for time spent binding the transcripts and copying the exhibits and binding the exhibits. This labor charge shall be equivalent to the court reporter's hourly compensation rate.
- 2.8. Court reporters may charge a supply charge as follows:
- (1) Paper                      \$.02 per sheet
  - (2) Binders                    \$1.00 per binder
  - (3) Computer disk          \$.25 per disk

**3. APPELLATE TRANSCRIPTS.**

- 3.1. Court reporters may charge up to an additional \$.50 per page for transcripts prepared in accordance with the Indiana Rules of Appellate Procedure.

**4. PRIVATE PRACTICE.**

- 4.1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the

use of the court equipments for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (1) The reasonable market rate for the use of equipment, work space and supplies:
  - (2) The method by which record are to be kept for the use of equipment, work space and supplies and
  - (3) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- 4.2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.



**SPECIAL JUDGE SELECTION IN CIVIL CASES**

1. Pursuant to T.R. 79(D), parties to a civil action may agree (with concurrence with the judge selected) to any particular special judge.
2. Pursuant to T.R. 79(E), in absence of an agreement as to a particular special judge, the parties, alternatively, may agree to have the regular sitting judge appoint a special judge.
3. Pursuant to T.R. 79(F), in the absence of an agreement as to a particular special judge or an agreement to have the regular sitting judge appoint a special judge, the regular sitting judge shall name a panel of three judges from the other Hendricks County Circuit Court or Superior Courts Judges.
4. If Hendricks County does not have a sufficient number of regular sitting judges, then the sitting judge shall name a panel including the available local judges and a judge (s) or magistrate(s) from Boone County or Morgan County.
5. If a special judge does not accept the case or a judge disqualifies and recuses under T.R. 79(C) then the Clerk of Hendricks County shall randomly select from the Judges of Hendricks, Boone, and Morgan not used in the panel as Special Judge.
6. If no Special Judge accepts using any of the methods recited hereinabove, the regular sitting judge shall certify to the Supreme Court for naming of special judge.
7. The sitting judge may forego the requirements set forth herein and certify immediately to the Indiana Supreme Court for the appointment of a special judge if the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court.

**ASSIGNMENT OF CRIMINAL CASES**

1. As used herein, the term *WEEK* for criminal case filing shall mean the following:
  - 1.1. Circuit Court **WEEK 6**
  - 1.2. Superior Court No. 1 **WEEK 1**
  - 1.3. Superior Court No. 2 **WEEK 2**
  - 1.4. Superior Court No. 3 **WEEK 3**
  - 1.5. Superior Court No. 4 **WEEK 4**
  - 1.6. Superior Court No. 5 **WEEK 5**
2. The first week of January 2007 shall be deemed **WEEK 4**.
3. The weekly rotation will be from 12:01 a.m. Friday until 12:00 a.m. on the following Friday. All misdemeanor and felony cases except as set forth in this Rule will be assigned in a weekly rotation on the day on which the offense alleged in the charging document (including Grand Jury Indictments) occurred. In the event of multiple offenses the date of the earliest offense alleged in the charging document shall control the rotation date and assignment of court. Filing of multiple offenses shall comply with Indiana Supreme Court Administrative Rule 1 (B).
4. Any criminal case filing that does not set forth a specific date that the offense is alleged to have been committed shall be filed in Circuit or one of the Superior Courts by the Clerk selecting at random one of the Courts with local jurisdiction of that type of case. The method of the selection shall be in manner that each Court has the possibility of being selected each time.
5. For offenses occurring prior to January 1, 2007, that have not yet been filed those cases shall be assigned in rotation pursuant to the prior filing order except as set forth herein as to cases with no specific date of offense.
6. When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.
7. In the event additional charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional charges to be resolved in conjunction with the pending case shall be assigned to the court of initial assignment.
8. All **CM** cases filed under ***I.C. 9-30-5-1*** and ***I.C. 9-30-5-2*** shall be filed in Hendricks Superior Court No. 2, Hendricks Superior Court No. 3, and Hendricks Superior Court No. 5 equally.
  - 8.1. Superior Court No. 2 shall receive these cases filed in ***WEEK 1*** and ***WEEK 2***.
  - 8.2. Superior Court No. 3 shall receive these cases filed in ***WEEK 3*** and ***WEEK 4***.

- 8.3. Superior Court No. 5 shall receive these cases filed in *WEEK 5* and *WEEK 6*.
9. All **CM** cases filed under ***I.C. 35-42-2-1.3*** and ***I.C. 35-46-1-15.1*** shall be filed in Hendricks Superior Court No. 4.
10. All other cases with a **CM** designation shall be filed by the *WEEK* assigned for that Court except that Hendricks Superior Court No. 4 shall also receive the **CM** filings during *WEEK 1*.
11. All **FA, FB, FC,** and **FD** cases filed under ***I.C. 9-30-5*** shall be filed in Hendricks Superior Court No. 2, Hendricks Superior Court No. 3, Hendricks Superior Court No. 4, and Hendricks Superior Court No. 5 equally.
- 11.1. Superior Court No. 2 shall receive all of these cases filed in *WEEK 2* and also *WEEK 1* from July to December 31.
- 11.2. Superior Court No. 3 shall receive all of these cases filed in *WEEK 3* and also *WEEK 6* from July 1 to December 31.
- 11.3. Superior Court No. 4 shall receive all of these cases filed in *WEEK 4* and also *WEEK 1* from January 1 to June 30.
- 11.4. Superior Court No. 5 shall receive all of these cases filed in *WEEK 5* and also *WEEK 6* from January 1 to June 30.
12. All other with an **MR, FA, FB, FC,** and **FD** designation shall be filed by the *WEEK* assigned to that Court.
13. The Prosecutor shall be permitted to continue to file misdemeanors and infractions in the three Town Courts pursuant to current practice.
14. The Prosecuting Attorney or the defendant may move to transfer a case and, upon good cause shown, a case may be transferred to any of the other courts for consolidation with a companion case, or with other cases pending in that court against the defendant provided the Judge of the receiving court accepts the transfer.
15. A judge of Hendricks Circuit or a Superior Court, by appropriate order entered in the Record of Judgments and Orders may transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense in any pending case subject to acceptance by the receiving court.
16. In the event a motion for change of Judge is filed and granted pursuant to Criminal Rule 12, the Clerk shall randomly select one of the other courts with local jurisdiction and the case shall be reassigned to the Court. (For statistical purposes the case is

disposed by transfer and in the second court as "*transferred in*").

17. In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, the presiding judge may request the Indiana Supreme Court for such appointment.